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June 17, 2021

VIA ECF

Honorable J. Paul Oetken
United States District Judge
Southern District of New York
United States Courthouse
40 Foley Square
New York, NY 10007

United States v. Kukushkin, et al. 19 CR. 725 (JPO)

Dear Judge Oetken:

We are counsel to Andrey Kukushkin in the above matter. We write to seek a short three-week adjournment of the joint trial date, assuming there is one,¹ from October 4, 2021, to October 25, 2021, due to unexpected scheduling conflicts.

¹ Mr. Kukushkin's motion for a severance and to be tried alone after any trial of his co-defendants is currently *sub judice*. For all the reasons stated therein, we submit that a joint trial is inappropriate and unduly prejudicial. Not only would it be exceedingly longer (weeks vs. no more than a couple of days), but it would subject Mr. Kukushkin to unwarranted prejudice resulting from repeated reference to the former President and his associates, including Rudolph Giuliani, as well as the unrelated bad acts of the co-defendants to which Mr. Kukushkin has no connection. Indeed, the prejudice has only increased since the filing of Mr. Kukushkin's severance motion. Since then, Messrs. Parnas and Correia have been sued in a parallel proceeding by the Securities and Exchange Commission related to their alleged activities with Fraud Guarantee. Those allegations are wholly unrelated to the charges pending against Mr. Kukushkin and Mr. Kukushkin is not alleged to have had any involvement or even knowledge of

Mr. Lefcourt is a lifetime member, past-President, and active member of the National Association of Criminal Defense Lawyers (NACDL). He is also the founder and past-President of the NACDL's Foundation for Criminal Justice (the "Foundation"). Among other things, Mr. Lefcourt co-chairs and teaches at the NACDL's annual White Collar Crime Seminar, a multi-day event during which the NACDL holds its annual Board meeting and the largest fundraising event of the year for the Foundation. This year's seminar is scheduled to take place, in person, from October 6 through October 9, 2021, in Washington, D.C., with the fundraiser held on the evening of October 7, 2021. At the time the trial was scheduled, Mr. Lefcourt was unaware of the conflict, nor did he anticipate it being an issue (i.e. a live event) given the state of the COVID-19 pandemic at the time.

In addition, Mr. Lefcourt's youngest daughter was recently admitted to and will be attending her freshman year of college in the Washington, D.C. area starting this Fall. The school has scheduled events for parents from October 15-17, 2021. As you can imagine, particularly coming off of the last eighteen months, it is extremely important to Mr. Lefcourt and his daughter that Mr. Lefcourt be able to attend and fully participate in all events, without the specter of the trial looming overhead.

For these reasons, we respectfully request that the start of any joint trial (or one in which Mr. Kukushkin is a defendant) be adjourned three weeks to October 25, 2021. We have conferred with counsel for all defendants, and they consent to this application as well as to an exclusion of this additional time under the Speedy Trial Act in the interests of justice pursuant to 18 U.S.C. § 3161(h)(7)(A). In addition, we conferred with the government. The government objects solely out of concern that given the unique trial scheduling system that currently is in place, this request could result in the trial being adjourned beyond the fourth quarter of 2021. Instead, the government consents to an "off" day on October 15, 2021. Unfortunately, this only addresses one of the conflicts and does not do so sufficiently. In addition, the government's position ignores the fact that the trial date could be scheduled later – even beyond the fourth quarter of 2021 – either due to trial date requests of other defendants, in particular incarcerated defendants, administrative conflicts, or as a result of the defense's recent request that the government produce materials in the government's possession as a result of the Giuliani, et al. search warrants. Nor does it take into consideration the fact that the current trial scheduling constraints may no longer be in effect in October.

In short, these scheduling conflicts were unexpected and unavoidable, not of Mr. Lefcourt's making, are being raised sufficiently in advance of trial to avoid prejudice, and involve very important outside matters, and the adjournment request is, we submit, reasonable

the alleged Fraud Guarantee Scheme. If that were not enough, it recently came to light that the government executed several search warrants at the home and office of Mr. Giuliani (and others) as well as on various electronic accounts with which he is allegedly associated as part of an ongoing grand jury investigation. The press reports in connection therewith have been relentless and each seemingly includes reference to Mr. Kukushkin's co-defendants, in particular, Mr. Parnas, often mentioning the instant matter. This will undoubtedly be an issue during jury selection at any joint trial, as well as during the conduct of the trial itself. The result is undue prejudice to Mr. Kukushkin which would not be present – at least not to the same degree – at a trial of Mr. Kukushkin alone, conducted after that of Messrs. Parnas and Fruman.

and minimally tailored to avoid significant delay. Given the foregoing, we respectfully request that the Court grant a short adjournment of the joint trial (or any trial in which Mr. Kukushkin is a defendant) to October 25, 2021. We thank the Court for its consideration.

Respectfully submitted,

/s/ Faith A. Friedman
Faith A. Friedman

cc: All counsel (via ecf)